

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>DAVID ROBINSON,</b>	:	
	:	<b>CIVIL ACTION</b>
<b>Plaintiff,</b>	:	
<b>v.</b>	:	
	:	<b>NO. 18-1743</b>
<b>PHILIP MORRIS USA, INC,</b>	:	
<b>et al.,</b>	:	
	:	
<b>Defendants.</b>	:	
	:	

**ORDER**

**AND NOW**, this 22nd day of April, 2019, upon consideration of the Motion by Defendants R.J. Reynolds Tobacco Company and Philip Morris USA, Inc. to Dismiss for Failure to State a Claim (Doc. No. 28) and the separate Motion by Defendant Philip Morris USA to Dismiss for Lack of Product Use (Doc. No. 27), it is hereby **ORDERED** that:

1. Defendants’ Motion to Dismiss Plaintiff’s claims as time barred is **DENIED**;
2. Defendants’ Motion to Dismiss Plaintiff’s product liability claim in Count I of the Amended Complaint is **DENIED** to the extent that Plaintiff alleges defects in Defendants’ warnings prior to 1969 and **GRANTED** in all other respects;
3. Defendants’ Motion to Dismiss Plaintiff’s negligence claim in Count II of the Amended Complaint is **DENIED**;
4. Defendants’ Motion to Dismiss Plaintiff’s “youth marketing” claim in Count III of the Amended Complaint is **GRANTED**;
5. Defendants’ Motion to Dismiss Plaintiff’s Complaint for insufficient process is **DENIED WITHOUT PREJUDICE**. Plaintiff shall have **forty-five (45) days** from the date of this Order in which to effectuate proper service on the Defendants. Failure to do so may result

in dismissal of his Amended Complaint. Defendants shall have **twenty-one (21) days** after service in which to file Answers.

6. Defendant Philip Morris's separate Motion to Dismiss for Lack of Product Use is **DENIED.**

**BY THE COURT:**

*/s/ Mitchell S. Goldberg*

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**MITCHELL S. GOLDBERG, J.**